IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.921 OF 2000

Mr. Navneet Khantilal Vora & Ors .. Appellants

versus

Shri Paresh R. Vora & Ors. .. Respondents

...

Mr. P.S. Dani for appellants.

None present for respondents no.1 to 3.

Appeal against respondents no.4 to 6 dismissed by an order dated 29/01/2003

CORAM : D.G. KARNIK, J

DATED :3rd October, 2006

P.C.:

1. Heard Mr Dani for the appellants. None present for the respondents.

2. This appeal is directed against the order dated 15th March, 2000 passed below Exhibit 5 in Misc. Application No.447 of 1999 by the Civil Judge, Senior

Division, Thane.

3. Respondents 1 to 3 filed an application under Section 34 of the Arbitration and Conciliation Act,1996 bearing Misc. Application No.447 of 1999, against the appellants and the remaining respondents for setting aside operation of the arbitral award dated 7th June, 1999. In the said proceedings respondents made an application at Exhibit 5 for stay of the arbitral award pending final hearing of the application and also for appointment of a Court Receiver and interim injunction. By an order dated 15th March, 2000 the trial court appointed a receiver and stayed the execution of the arbitral award, pending hearing and decision of the Misc. application. That order is impugned in this appeal.

4. While admitting the appeal this Court, by its order dated 16th August, 2001 granted a partial stay to the impugned order. The order passed by this Court on 16th August, 2001 (CORAM; A.M. KHANWILKAR, J.) is quoted herein below:-

> "Heard both sides.
>
> Admit.

> So far interim relief is concerned, in my view, the interim relief can be confined to clause 3 of the operative order which restrains the opponents 6 to 10, appellants herein from dealing with the properties which did not form part of the arbitration proceeding. The award specifically mentions that immovable properties purchased before September 1991 are totally excluded from the purview of the dispute in arbitration. In the circumstances interim relief only to that extent is granted. Ad-interim relief granted earlier is modified to above extent. Appeal expedited."

5. Learned counsel for the appellant submits that this interim order passed by this Court on 16th August, 2001 may be continued till the final disposal of the Misc. Application No.447 of 1999. He submits that hearing of the Misc. Application has commenced and part of the evidence has already been recorded and the applicant in Misc.

Application No.447 of 1999 is under cross examination.

6. In view of the fact that the interim order passed by this Court on 16th August, 2001 is in force for a period of more than five years and also in view of the fact that hearing of the Misc. Application No.447 of 1999 has already been commenced and also in view of the fact that none of the respondents have appeared in this Court I feel it appropriate to continue the interim order passed by this Court on 16th August, 2001 till the disposal of Misc. Application No.447 of 1999 by the trial court. Accordingly the appeal is allowed in part. The impugned order passed by the trial court is modified to the extent indicated by this Court in its interim order dated 16th August, 2001.

7. Hearing of the Misc. Application No.447 of 1999 is expedited. The trial court is directed to dispose of it as expeditiously as possible and in any event within a period of one year.

(D.G. KARNIK, J)